Fiscal Note 2011 Biennium

GOVERNOR'S OFFICE OF BUDGET AND PROGRAM PLANNING

Bill #	HB0113	**Title:**	Revise taxation of new or expanded business enterprise property
Primary Sponsor:	Villa, Dan	**Status:**	As Introduced

- ☑ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☑ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Expenditures:				
General Fund	$67,889	$55,889	$55,889	$55,889
Revenue:				
General Fund	**************	************UNKNOWN	**************	****************
State Special Revenue	**************	************UNKNOWN	**************	****************
Net Impact-General Fund Balance:	**************	************UNKNOWN	**************	****************

Description of fiscal impact:
This bill provides property tax incentives for new and expanding business enterprises, revising current law incentives, and removing new industrial property from Class 5. This fiscal note presents the case for one firm's qualifying $30,000,000 investment that would qualify for the abatement. The number of firms that might qualify in the future is unknown.

FISCAL ANALYSIS

Assumptions:

1. Section 2 of this bill provides definitions for businesses eligible for the tax incentives provided by this bill. Based on these definitions, an eligible new business enterprise is one that:
   a. Anticipates to derive more than 50% of annual gross revenue from sales outside Montana or produces value-added products;
   b. Commences operations in Montana on or after January 1, 2009; and,
   c. Employs at least 10 qualifying employees.
2. The definition in Section 2 for an expanding business enterprise is a business that:

   a. Derives more than 50% of annual gross revenue from sales outside Montana or produces value-added products; and,
   b. Employees an additional 10 qualifying employees on or after January 1, 2009.
3. Section 2(6) provides a definition of a qualifying employee as a permanent, full-time employee who is:
   a. Paid the lesser of either the county average annual wage or the Montana average annual wage based on the Department of Labor's quarterly census;
   b. Necessary to the business's operations; and,
   c. Employed during the entire applicable qualifying period.
4. Value added products or commodities are defined in Section (2)(8) as products suitable for sale out of state that are manufactured, processed, produced or created from raw or intermediate materials. Section 2(8)(b) states that services, transportation or sales are not value added unless incidental to the production.
5. Sections 2(3) and 2(5) define new or expanding business enterprise property as buildings, machinery, and fixtures necessary for the employment of the qualifying employees and utilized throughout the entire qualifying period. 2007 figures from the Department of Labor and Industries Quarterly Census of Employment & Wages show the average annual wage paid in the private sector in Montana as $30,953 and the lowest average county private sector wage as $ 17,977.
6. Section 2(7) defines the qualifying period as the first 3 years of new or expanded operations or the time period during which the new or expanding may qualify for local abatements.
7. Section 3 of the bill directs that those new or enhanced business enterprises qualifying for abatement of taxes for both state and local mills property be taxed at 33% of the assessed taxable value for the three years of the qualifying period. Business enterprises receiving a tax abatement under Section 3 are not eligible for the local abatement provided in Section 6.
8. For new or enhanced business enterprises that qualify for local abatements, Section 5 directs that those qualifying for abatement of taxes for both state and local mills property be taxed at 33% of the assessed taxable value for the three years of the qualifying period.
9. For tax year 2008, based on legal name, approximately 502 companies had property that qualified under the current law new and expanding industry abatement statute. The amount of taxable value associated with the current new and expanding industry property abatement program is provided in the following table:

Tax Year 2008

Value of New and Expanding / New Industrial Properties

Property Type	**Tax Class**	**Tax Year 2008 Taxable Value**
New Industrial Improvements	4	$23,329,008
New & Expanding Industry - Pollution Control	5	$49,810
New & Expanding Industry - Equipment	8	$7,918,930
New & Expanding Gas/Elec. Equipment	9	$171,290
Centrally Assessed New & Expanding Situs	13	$416,625
New & Expanding Wind Generation	14	$2,943,785
Total		$34,829,448

   Under this proposal, these properties would continue to receive the current law tax abatement. However, any new applicants would have to meet the new criteria proposed by this bill. Since the criteria are quite different, the history of abatements to date cannot be used to project future impacts. Therefore determining fiscal impact is impossible.

10. The following provides an example of the impact of this bill. In TY 2009, a business invests $5 million in taxable market value for a Class 4 industrial building and $25 million market value in Class 8 property

and both of these investments meet the criteria of expanding business enterprise property. The business submits and is approved for the state and local abatement provided in Section 3. As provided for under this section, the taxable value of the qualifying property would be 33% of the taxable value for 3 years. For purposes of this fiscal note, the current law tax rate of 3.01% for Class 4 property is assumed constant through FY 2013; 101.53 is used for the state and university mills; and, the current statewide average 2008 local mill levy of 433.71 is grown by 2.67% to 445.29. The following table provides a comparison of the impact on tax revenues with and without the abatement for this business expansion:

Impact of HB 113 as Introduced
on Qualifying Business Investment for State/Local Abatements of $30 million

Tax Year 2009	State Mills	Local Mills	Taxable Market Value	Current Law FY2010 Taxable Value	Current Law FY2010 State Taxes	Current Law FY2010 Local Taxes	Proposed Law FY2010 Taxable Value	Proposed Law FY2010 State Taxes	Proposed Law FY2010 Local Taxes
Class 4	101.53	445.29	$5,000,000	$150,500	$15,280	$67,016	$49,665	$5,042	$22,115
Class 8	101.53	445.29	$25,000,000	$750,000	$76,148	$333,968	$247,500	$25,129	$110,209
Total			$30,000,000	$900,500	$91,428	$400,984	$297,165	$30,171	$132,325

11. For a similar investment in qualifying property of a business receiving the local abatement under Section 6 of this bill, the taxable value for local mills purposes for this property would be 50% of the taxable value without the abatement for 5 years. Using the current statewide average local mill levy of 433.71 grown by 2.67% annually to 445.29, the following table provides an estimated impact on tax revenue in FY 2009 for a qualifying Section 6 business investment of $5 million taxable market in a Class 4 industrial building and $25 million in Class 8 property:

Impact of HB 113 as Introduced
on Qualifying Business Investment for State/Local Abatements of $30 million

Tax Year 2009	State Mills	Local Mills	Taxable Market * Value	Current Law FY2010 Taxable Value	Current Law FY2010 State Taxes	Current Law FY2010 Local Taxes	Proposed Law FY2010 Taxable Value	Proposed Law FY2010 State Taxes	Proposed Law FY2010 Local Taxes
Class 4	101.53	445.29006	$5,000,000	$150,500	$15,280	$67,016	$49,665	$5,042	$22,115
Class 8	101.53	445.29006	$25,000,000	$750,000	$76,148	$333,968	$247,500	$25,129	$110,209

* assumes 3.01% tax rate and

12. The Department would require 1 FTE to process the applications for new and expanding business. The anticipated expenses associated with this position are $60,389 in FY 2010 and $55,889 in each year of FY 2011 through FY 2013. In FY 2010, the Department would also incur $7,500 in administrative costs to develop two application forms (one for Section 4 and one for Section 6) and a quarterly reporting form (Section 5).

	FY 2010 Difference	FY 2011 Difference	FY 2012 Difference	FY 2013 Difference
Fiscal Impact:				
FTE	1.00	1.00	1.00	1.00
Expenditures:				
Personal Services	$43,193	$43,193	$43,193	$43,193
Operating Expenses	$19,796	$12,696	$12,696	$12,696
Equipment	$4,900	$0	$0	$0
TOTAL Expenditures	$67,889	$55,889	$55,889	$55,889
Funding of Expenditures:				
General Fund (01)	$67,889	$55,889	$55,889	$55,889
Revenues:				
General Fund (01)	**************	**********UNKNOWN	*********** *	***************
State Special Revenue (02)	**************	**********UNKNOWN	*********** *	***************
TOTAL Revenues	**************	**********UNKNOWN	*********** *	***************
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	**************	**********UNKNOWN	*********** *	***************
State Special Revenue (02)	**************	**********UNKNOWN	*********** *	***************

Effect on County or Other Local Revenues or Expenditures:

1. The impact of assuming one business qualifying with a $30 million investment is reflected in assumptions 10 & 11. However, there is no way to determine the number of local abatements under the various sections of this bill that will be granted.
2. Local jurisdictions' retain the option to award or not award the tax abatements.

Long-Term Impacts:

Because the new abatement programs are local option programs, there is no way to determine how many future applications will be granted or approved. The general fund and the university 6 mill account will be impacted depending on future new and expanding industries being granted abatements that include state mill levies.

Technical Notes:

1. In Section 4(7)(a), the bill provides that DOR may include in its decision an assessment as to whether the investment would have taken place without the tax change. In many instances, DOR, based on the information it receives, will not be in a position to appropriately judge to what degree the abatement impacted the enterprise's investment decision.
2. New Section 4 indicates once a local government approves an application for property tax abatement, the applicant is to pay a fee to the department to cover the department's costs for processing the application. The fee is to be determined by the department. The assumption is the fee would be based on DOR's administrative costs estimated for this bill (costs submitted by the Property Division and the Business and Income Tax Division) divided by the number of applicants in a given year. This is problematic since the fee could not be determined until all applications were received for the year and could not be levied at the time the application was received. It is recommended that the fee be assessed once the application is processed based on costs occurred for each application.

3. This bill does not indicate where the application fee is to be deposited, nor does the bill provide for an appropriation to the department for applying costs against the fees received. An amendment is suggested that would define where the fees are to be deposited and give the department appropriation authority to spend from this fund.
4. Under 15-24-3111, MCA, eligible newly expanding businesses can receive a 50% abatement in taxable value. It is important to note that a company could receive both the abatement under this bill and the abatement under this other section, effectively reducing the taxable value by 66.5% under Section 3 for all mill calculations and 75% under Section 6 for local mill calculations.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*